

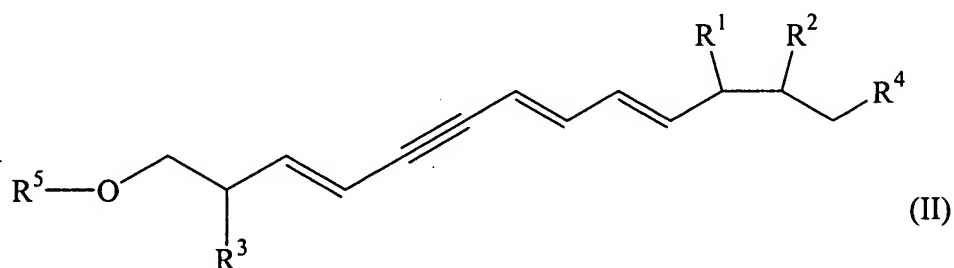
different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used in a materially different process of using such as the method claimed in Group III.

Inventions I and III are related as product and process of use. The inventions can be shown to be distinct in either or both of the following can be shown: (1) the process for using the product as claimed can be practiced with another materially different product or (2) the product as claimed can be used in a materially different process of using that product (MPEP § 806.05(h)). In the instant case, the product can be used in a materially different process of using such as the method claimed in Group II.

The Examiner further states that because the inventions are distinct for the reasons given, because the inventions have acquired a separate status in the art as shown by their different classifications and because the search required for Group I is not required for Groups II or III, restriction for examination purposes is proper.

Applicants elect, **with traverse**, Group I, *i.e.*, Claims 1-5 for the following reasons:

Claims 1-17 of the instant application are directed to compounds of the following formula (II), pharmaceutical compositions containing such compounds, and methods of using such compounds:



(where R¹, R², R³, R⁴ and R⁵ are as described in Claim 1.)

The Examiner has not established that examining all of these claims in a single application will create a serious burden on the PTO. As noted in § 808.02 of the *Manual of Patent Examining Procedures*, the Examiner must show by appropriate explanation one of the following:

- (a) **Separate classification thereof.**
- (b) **A separate status in the art when [the inventions] are classified together.**
- (c) **A different field of search.**

The Examiner has not provided evidence that the invention of Group I would be classified in a separate classification than the invention of Group II and/or the invention of Group III. In fact, the Examiner specifically states in the Restriction Requirement that Group II and Group III are classified in the **same** class.

Even if the inventions are classified together, the Examiner has not provided any clear indication that a separate status in the art exists between the inventions or that the inventions would require different fields of search.

The unifying feature of all the claims in the application is the compounds of formula (II). Applicants respectfully submit that a search directed to these compounds will necessarily identify art related to methods of using such compounds and pharmaceutical compositions containing such compounds.

In view of the Examiner's lack of evidence as to the separate classification, separate status in the art and/or different fields of search for the inventions, and in view of the fact that a search directed to the compounds Group I would necessarily identify art relevant to the methods and pharmaceutical compositions of Group II and Group III, Applicants respectfully submit that the Examiner cannot support a contention of serious burden on the PTO to examine all the claims in one application.

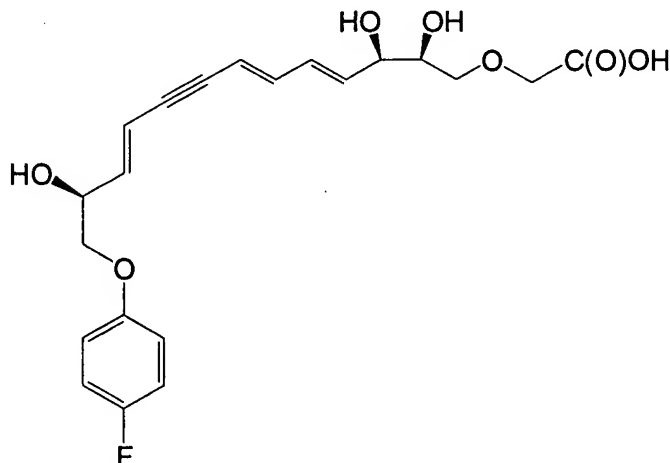
Accordingly, Applicants respectfully request the withdrawal of the Restriction Requirement and respectfully request the examination of all the claims in the instant application.

In the event that the Examiner refuses to withdraw the Restriction Requirement and makes it final, Applicants respectfully request that the claims in Group II or the claims in Group III be rejoined with the claims of Group I for examination as set forth in § 806.05(i) of the *Manual of Patent Examining Procedures*. In the event that the Restriction Requirement is made final, Applicants reserve the right under 35 U.S.C. 121 to file divisional applications on any non-elected subject matter.

Election of Species:

Applicants are also required to elect a single species.

Accordingly, Applicants elect the species of the following formula:



This compound is a compound of formula (II) as set forth in Claim 1. It is prepared as described in Example 3 and specifically claimed in Claim 5 as (5S,6R,7E,9E,13E,15S)-16-(4-fluorophenoxy)-5,6,15-trihydroxy-3-oxahexadeca-7,9,13-trien-11-ynoic acid.

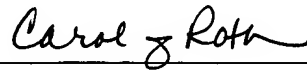
Claims 1-17 read on this species.

It is understood, by electing this species, that if a generic claim reading on this species is found allowable, Applicants will be entitled to consideration of claims to additional species which are dependent from the allowable generic claim.

Consideration of the pending claims in view of the above remarks, particularly with respect to the traversal of the Restriction Requirement, is hereby respectfully requested.

Respectfully submitted,

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